

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

LES LUNDBERG, d.b.a.)
TOLEDO SCALES,)
Appellant,)
vs.)
YAKIMA COUNTY CLEAN)
AIR AUTHORITY,)
Respondent.)

PCHB No. 65
FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$100 civil penalty for an alleged open burning violation of respondent's Regulation 1, came before the Pollution Control Hearings Board (Walt Woodward, hearings officer), in the Yakima County Courthouse at 10:00 a.m., November 30, 1971.

Appellant appeared. Respondent was represented by William Cramer, executive director and control officer. Olive Blankenbaker, court reporter, prepared the record.

Witnesses were sworn, testified and were questioned. From the evidence submitted the Pollution Control Hearings Board makes these

FINDINGS OF FACT

I.

On August 18, 1971, in the community of Glead, Yakima County, an employee of appellant burned waste grass on appellant's property at the direction of appellant. Respondent became aware of the burning after it was notified by the Chief of the Glead Fire Department, which had been summoned that day to extinguish a small roof fire at a house adjacent to appellant's property.

II.

Regulation 1 of the Yakima County Clean Air Authority specifies that open fires are not permitted for the destruction of grass and similar waste materials when other means are available for their removal. Testimony was not disputed that there were other means available for the removal of the grass on the Lundberg property.

III.

Appellant, a life-long resident of Yakima County, was aware of the Yakima County Clean Air Authority, supported its principles and attempted to respect them by not burning such objects as old paint cans and other materials which he knew would cause pollution of the air. Respondent, however, was not aware that Regulation 1 banned open burning of grass waste.

From these facts, the Pollution Control Hearings Board comes to these

CONCLUSIONS

I.

Appellant did violate Regulation 1 of the Yakima County Clean Air Authority with an open fire of material which could have been removed

FINDINGS OF FACT,

II.

The violation was not willful and was appellant's first citation by respondent.

III.

The civil penalty of \$100, although a reduction from the allowable maximum of \$250, still appears to be somewhat excessive.

From these conclusions, the Pollution Control Hearings Board issues the following

ORDER

The citation of appellant for open burning in violation of Regulation 1 of the Yakima County Clean Air Authority is sustained, but is remanded to respondent for the setting of a more appropriate civil penalty.

DONE at Olympia, Washington this 23rd day of December, 1971.

POLLUTION CONTROL HEARINGS BOARD

Matthew W. Hill
MATTHEW W. HILL, Chairman

Walt Woodward
WALT WOODWARD, Member

James T. Sheehy
JAMES T. SHEEHY, Member